



Minutes of the Hornby Island Advisory Planning Commission

Date of Meeting:	Friday, November 15, 2024
Location:	The Green Room, Hornby Island Hall 4305 Central Road, Hornby Island, BC
APC Members Present:	Wendy Burton, Chair Angela Therrien, Deputy Chair Joanne Ovitsland, Secretary Aileen Fearman, Member (by Teleconference) Vicki Bale, Member (by Teleconference) Rob McCreary, Member
Staff Present:	Sonja Zupanec, Senior Planner (by Teleconference) Katherine Vogt, Recorder (by Teleconference)
Regrets:	Sadie Chezenko, Member
Others Present:	Approximately one (1) member of the public

1. CALL TO ORDER

Chair Burton called the meeting to order at 10:03 am. She welcomed everyone and noted that quorum was present. She acknowledged that the meeting was being held on the traditional and unceded territory of the K'ómoks Nation and the Pentlatch People; and acknowledged the many groups and tribal associations who have traveled through this area since time immemorial.

2. APPROVAL OF AGENDA

The following item addition was presented for consideration:

- add "Meeting Notices" under Item 5; move existing Item 5 forward.

By general consent, the agenda was approved as presented.

3. MINUTES

3.1 Hornby Island Advisory Planning Commission Draft Minutes dated November 1, 2024

By general consent, the minutes of November 1, 2024 were adopted as presented.

Chair Burton updated members that the Advisory Planning Commission (APC) is being currently advised to not disseminate information from adopted minutes until they are received by local trustees in their upcoming LTC meeting agenda

package. Previously, adopted APC minutes were quickly posted on the Islands Trust website; however, this practice has been recently suspended due to staff availability issues which Planning Team Assistant Straw has offered to review with management and get back to the Chair.

- A member remarked that this made the APC look non-transparent and created an information vacuum; also, agenda packages are difficult to dig through.
- Chair Burton added that members of the public can attend APC meetings and talk about them; but without formal minutes, members of the public cannot point to statements of fact.

Chair Burton requested that the minutes for the current meeting reflect the narrative capturing of comments style of the previous November 1, 2024 minutes.

4. Discussion of Referral

4.1 Proposed Bylaw 176 (OCP) and 177 (LUB): amendments to do with Short-Term Rentals/Temporary Use Permits; and clarifying bylaws for ALR zoned properties providing “tourist accommodation”

Chair Burton clarified the following:

- That the document being referenced for the following discussion was the Hornby Island Official Community Plan (OCP) Bylaw No. 149, 2014, taken from the LTC meeting agenda package in which section 6.10 covers Temporary Use Permits (TUP)s; and the Hornby Island Land Use Bylaw (LUB) No. 150, 2014, in which TUPs and their regulations are covered in Part 10, page 66;
- That any part of a TUP application could be varied by the LTC or Islands Trust planners for various reasons including redundancy; or to allow just a section of the property to be site surveyed; and
- That the APC had previously, in 2022, recommended that if TUPs for Short-Term Rentals were used, that they be batch processed and that the fee be reduced.

APC members discussed the statement in OCP Section 6.10, Temporary Use Permit, Objective No. 8 “... and to allow vacation home rental use as per Policy 6.5.2.5c,” which was proposed to be removed because it was no longer a general permitted use, but was rather now a governed Land Use Bylaw use, noting the following:

- A member supported the use of TUPs for Vacation Home Rentals (VHR)s.
- Members noted that the TUP lasted 3 years, could be renewed once; then reapplied for indefinitely, though this re-application option is not explicitly noted in the bylaws, whereas Comox Valley Regional District (CVRD) business licenses have to be re-applied for every year.
- A member added that a TUP permit will transfer with a property title upon a sale whereas a business license will not; so, an owner can be screened through business licensing.
- A member acknowledged previous APC support for business licensing.

- Chair Burton responded that business licensing was currently out of scope, but could be added as an advocacy recommendation.

Chair Burton confirmed with all members that they agreed with the proposal to remove all current TUP Vacation Home Rental Guidelines from the OCP; and to have them moved to the LUB.

APC members discussed the proposal to remove references to Vacation Home Rentals (VHR)s from the LUB Section 3.7.

- A member noted the removal of the definition for VHRs was a problem for future applicants who may belatedly discover that their property does not qualify for a VHR.
- Chair Burton confirmed that the planner had allowed for a definition; APC members concurred with the need for a definition, excluding agritourism which could have an information note.
- A member requested that any glamping that is not agritourism be considered a VHR and be governed by the same regulations.
- Members reminded that VHRs were based in one's principal residence and that you could not have VHRs in separate buildings in areas of 2 HA or more.
- Chair Burton suggested that APC members needed to consider activities related to agritourism separately from activities related to short-term rentals.
- A member asked how to make the non-permitted use of glamping more explicit, other than in the Agriculture Land Reserve (ALR).
- Chair Burton noted that currently glamping is not defined but could be considered as a camping space. Planner Zupanec had recently asked if the APC was considering glamping as a use/structure for vacation rentals on residential lots.
- A member noted that there was a current limit of 10 glamping or accommodation sites for agritourism on working farms; but no occupancy limits; but there are seasonal limits.
- A member asked how it would be appropriate to have occupancy limits in the bylaws.
- Chair Burton suggested that agritourism be considered out of scope and not appropriate for TUPs, but that there could be an APC advocacy statement that agritourism be given descriptive language in the OCP and LUB.
- A member expressed concern that agritourism could become an uncontrollable drain on local resources.

Chair Burton confirmed with members the following 3 recommendations:

- To have separate language in the OCP and LUB for VHRs.
- To have separate language in the OCP and LUB for agritourism accommodations governed by the Agriculture Land Reserve (ALR).
- That it be advocated that those agricultural properties without description in the current bylaws be given language to describe, not prescribe, what is happening on them.
- A member reminded that the Agricultural Land Commission (ALC) is very well-resourced in their policy and regulatory processes.

Planner Zupanec joined the meeting at 11:02 am

APC members made the following comments and asked Planner Zupanec the following questions regarding TUPs for vacation home rentals:

- Why is it proposed to remove the definition of Vacation Home Rentals from the LUB Section 3.7?
 - Planner Zupanec responded that the definition was removed because the use is regulated in the TUP guidelines; however, for the purpose of convenience, a very nonspecific definition could be provided.
 - A member added that there is a definition for Visitor Accommodation Unit, which is not the same as a short-term vacation rental, which could be confusing.
- Where would the TUP Guidelines be for applicants to gauge their eligibility?
 - Planner Zupanec explained that the TUP Guidelines in the track changes version of the LUB were at the very end of the document in Part 10; and that they were purposely standard and generic so that the LUB did not have to be amended for every minor change to the TUP. Applicants were encouraged to talk to a planner about their application before submitting it to prevent confusion, delay, or unnecessary fees; and they will be given a communications document with specific advice from the planner.
- On page 67 of the LUB, 10.2 Objectives has been removed. Where did they go?
 - Planner Zupanec responded that the TUP objectives have been transferred to the OCP on page 86 exactly as they were originally written except for Objective 9 which was rewritten because it is not in the LUB anymore.
- Regarding the LUB, page 15, 3.7d, 2nd paragraph, it says that dwellings used for vacation home rentals can accommodate 2 beds per bedroom, no more than 3 bedrooms on a lot with an area of less than 1 HA. This allows 6 people. It could be changed to 1 person per 1 bed per bedroom.
 - A member disagreed because this would not provide for families; and TUPs could control heads rather than beds. 6 people was reasonable.
 - A member noted that some people have interpreted the 3 bedrooms as allowing up to 12 people, which is not justifiable even if they have the septic capacity.
 - Chair Burton confirmed with other members that there was a consensus for a maximum of 6 people, assuming adequate septic and water, on small lots.
 - Planner Zupanec noted that TUP Guideline F allows 2 beds per bedroom, maximum 3 bedrooms, on lots less than 1 HA; or 4 bedrooms for lots over 1 HA; TUP Guideline H allows for limitation of occupancy and signage for each applicant. A request for increased occupancy can be made unless there is a rigid cap put on occupancy.
 - APC members expressed a wish to put a cap on occupancy.
 - Planner Zupanec suggested an amendment to Guideline H that limits occupancy to 6 and 8; and that the signage piece be given its own sentence.
 - APC members agreed that a .75 Ha property should have a limit of 6.
 - Planner Zupanec affirmed that it could be specified that children less than 1 year old not be included in the occupancy head count.

- In Section 10.1 it says that TUPs can be renewed one time only. Can an addition be made that says the applicant can re-apply?
- Planner Zupanec affirmed that this could be stated more explicitly.
- A member shared that there were various apps and new sensor technologies being advanced for monitoring septic systems.
- What about Island Health (IH) approved outhouse/holding tanks that do not impact ground water?
- Planner Zupanec responded that the APC could recommend that Guideline 10 B be amended to incorporate approved alternative septic systems.
- A member recommended that it be made more explicit that approved secondary suites or Accessory Dwelling Units (ADU)s would not be permitted for short-term vacation rentals.
- Planner Zupanec offered that it could be reiterated in the TUP Guidelines that short-term rentals must be in the principal residence.

4.2 Proposed Bylaw 176 (OCP) and 177 (LUB): amendments to do with Secondary Suites and 1A Aquifer designation

APC members made the following comments and asked Planner Zupanec the following questions regarding secondary suites and the 1A designation:

- Chair Burton questioned how secondary suites were to be defined.
- Planner Zupanec clarified that LUB Section 3.7 states that secondary suites are to be occupied by the owner or a residential tenant, which is for 30 days or more.
- Planner Zupanec clarified that an owner can expand their house to include a secondary suite under the roof line. Attachments and walkways issues are better defined by what percentage of the wall space is attached. A 50% attached wall space has been a common stipulation of other local governments.
- Planner Zupanec reminded that ADUs trigger First Nation concern of increasing the percentage of the lot that becomes disturbed with an extra driveway and utilities; and ADUs have more complicated septic and water requirements.
- Planner Zupanec confirmed that if the APC were to recommend that secondary suites of 50% wall attachment to the principal dwelling be allowed and to not allow ADUs, that existing ADUs would be legally non-conforming.
- Chair Burton asked if legal non-conforming status would also apply to a current ADU being used as a short-term rental?
- Planner Zupanec responded that the LUB does not currently define the principal and ADU residences on lots with 2 dwellings, so planners could only go back to siting and use permit histories to determine which was built first because there were no size restrictions, and the density was permitted outright.
- A member asked how ADUs for short-term rentals, could become legal non-conforming if they were never legal on Hornby in the first place?

- Planner Zupanec responded that unauthorized existing ADUs would not be considered for legal non-conforming status; it is only on those site-specific lots where additional densities were permitted. The proposed bylaw does not accommodate these ADUs.
- Chair Burton commented that illegal ADUs applying for a TUP is the beginning of the process of applying for a variance.
- A member spoke on the cost, inconvenience, and precarious investment scenario of TUP applications for tiny homes and trailers. If these places are not legalized, there will be evictions.
- Chair Burton responded that there is currently a moratorium on evictions, which would protect tenants until owners could bring their properties up to code.
- A member expressed the importance of allowing secondary suites “or” ADUs because there is a high number of ADU dwellings already built.
- A member reminded that on other islands, uptake for applications for secondary suites has been very low due to high cost. ADUs allow for aging in place, for caretakers, and for some people to be able to keep their homes.
- Planner Zupanec added that it needed to be made explicit that an ADU either needed its own water system or if it were tied into the existing water system it would trigger the onerous “community water supply” requirements.
- Planner Zupanec suggested that if the ADU recommendation was accompanied with a clear stipulation for limited floor area, a “microhome,” that this could mitigate First Nation concerns.
- Chair Burton noted that LUB Section 3.8 was very explicit about lot size and the APC could refer to that in their recommendations.

Chair Burton confirmed with all APC members present that they were still in agreement that secondary suites “or” ADUs were interchangeably acceptable for upcoming final recommendations.

Chair Burton initiated discussion on the current 1A high vulnerability aquifer designation for Whaling Station which was proposed to be set aside and replaced by an island-wide designation; but it was not considered that the high-density subdivision areas of Sandpiper and Galleon, which currently allow secondary suites but not short-term rentals, could lose their permission for secondary suites under a new highly vulnerable aquifer designation.

- A member noted that there is a lack of scientific information on the freshwater status of various areas on Hornby.
- Chair Burton asked if the Freshwater Specialist was available for advising the APC for next meeting.
- Planner Zupanec responded that the LTC would need to initiate that request for data; so, the APC could recommend that the LTC do not proceed with a change in the aquifer designation until the Freshwater Specialist has been consulted; or the APC could defer to a precautionary approach to increased density.
- Chair Burton clarified that the precautionary approach would mean that the APC endorse the LTC proposal to have a 1A aquifer designation for Whaling Station.

- A member preferred that the precaution be appropriate septic and water for everyone.
- Chair Burton commented that there was sufficient evidence that Galleon and Sandpiper were highly vulnerable aquifer areas.
- Chair Burton noted that if someone wanted a short-term vacation rental at Whaling Station, they would have to apply for a TUP and prove water and septic under the 1A vulnerable aquifer designation.
- Planner Zupanec clarified that in the OCP Section 6.10.4 of the TUP Guidelines it states that there must be a professional assessment of hydrological impacts for any proposed short-term rental.
- Chair Burton noted that no TUPs have been applied for from the Whaling Station area.
- A member stated that many operators have been told that they are compliant, without having gone through the TUP process.

Member McCreary left the meeting at 12:00 pm.

Chair Burton asked APC members if they wanted the 1A designation to apply to Sandpiper and Galleon for Vacation Home Rental Uses.

- One member expressed uncertainty.

Chair Burton asked if language should be 2 HA or more or less than 2 HAs.

- Planner Zupanec responded that the language has been 2 HAs or more and that changing it could possibly bring about non-conforming situations.

Chair Burton questioned a discrepancy in the LUB regarding that under the 8.2 Residential 2 – Large Lot (R2) Zone, it states in (2) (a) that it is permitted to have: “a maximum of one residential dwelling unit and one secondary suite per lot having an area less than 4.0 hectares;” and, then, under (2) (b) “a maximum of two dwelling units and two secondary suites per lot having an area of 4.0 hectares or larger.”

- Planner Zupanec responded that this was an error in the 2014 base bylaw and needed to be corrected. It should read “an area less than 2 HAs in (2) (a); and an area of 4 HAs or larger in (2) (b).”
- Chair Burton requested an email from Planner Zupanec clarifying this discrepancy.

An APC Member initiated discussion on the Thatch/Hornby Island Resort project, questioning if they qualify under the provincial principal residence exemption requirements for existing strata hotels and motels offering short-term vacation rentals if they were not actually operating as a hotel/motel prior to 2023; in any case, if they are not meeting the exemption metrics, the local bylaws on short-term rentals should apply.

- A member responded that very little provincial enforcement was taking place; and only if it were complaint-driven. Also, if only 1 condominium unit has been sold in the development, they are likely not using a provincially required common front desk and booking system, a system which must be set up by the strata, not the individual owner.

- Planner Zupanec responded that she was unfamiliar with the file; but that if the zoning provisions for the site were not being complied with, it was a matter for bylaw enforcement, which could be triggered by advertising.
- Chair Burton noted that previously the APC had been advised by Planner Cox that the tourist accommodation definition previously applied to the Thatch (which did have some hotel rooms) does not transfer to these new condominiums; and that if they are operating short-term rentals, it should be covered by local bylaws.
- Chair Burton requested further clarity from the planner regarding the Thatch in case it might be included in final APC recommendations.

An APC member questioned that if Galleon and Sandpiper are designated 1A, and short-term rentals there are addressed by the TUP process, then, the item under Section 3.7 Secondary Suites, item no. (4) “Despite Part 8 of this Bylaw, a secondary suite is not a permitted use in a dwelling on any lot within the heavily developed – high vulnerability aquifer designation as shown on Schedule D2 of the Hornby Island Official Community Plan Bylaw No. 149” was redundant. Can the APC delete this section?

- Planner Zupanec confirmed that this section could be deleted.

Planner Zupanec left the meeting at 12:30 pm

4.3 Confirming “green light” proposed amendments

APC members discussed the possibility of having an extra meeting to perform an additional review of the final recommendations.

- Chair Burton explained the domino effect of missed deadlines and offered to create a draft resolution document with addendum for circulation 5 days before the next meeting. At any future point, the APC could change the deadline.

A member noted that recreational vehicles and camping still needed to be addressed; and that extending the seasonal boundary dates of May 1 to September 30 for tourist accommodation could be favourable for many events such as weddings.

- A member responded that, ideally, it could be the number of weeks in a year that was restricted.
- Chair Burton advised that this topic was out of scope for the current APC and needed a separate LTC-directed public meeting.

A member questioned the vagueness of TUP Guideline 10) (J) which states: “any other requirement that the Local Trust Committee considers appropriate” and another member noted that some of the other guidelines had brand new language.

- Chair Burton responded that “any other requirement” allows the LTC to make changes by special resolution, rather than upending the existing bylaw.

- A member noted that requirements for signage and parking were absent in the new TUP Guidelines and that it should be made explicit that there should be one parking space for each bedroom.
- Chair Burton noted that adequate parking is a legal definition in the LUB, which could be referred to as an information note.

A member noted that if a short-term rental were being licensed by the Comox Valley Regional District (CVRD) that proof of insurance would be required.

A member requested that signage be included in the TUP guidelines because there should be a contact number on the sign that is available 24/7.

- Chair Burton responded that she would raise this issue with the planner; but that it was likely that it would not be appropriate for the bylaw but could be better crafted into the actual permit application requirements given that signage and parking requirements may be very particular. A further recommendation could be a 'Frequently Asked Questions' document.

A member supported that the issue of the possibility of a cap on the total number of TUPs for vacation home rentals be reconsidered.

- Chair Burton noted that previously the APC had recommended TUPs for being a means to cap, which is not possible under a permitted use; but that currently, this issue was in play but out of scope.

4.4 Plan for drafting recommendations

Chair Burton and Deputy Chair Therrien offered to create a draft resolution document with addendum of responses to the proposed amendments for circulation 5 days before the next meeting with the aim of finalizing the draft recommendations by the end of the November 29th meeting.

5. Meeting Notices

A member asked how APC meeting notices might be more widely distributed other than just the notice board at the co-op; and if the Islands Trust could put it on their web page calendar?

- Chair Burton responded that the Trust email notification system provided notice of APC meetings; and advised that the Chair was not permitted to add any extra information to the official meeting notices; and offered that the APC could let various groups know how their members could sign up for electronic notification.

6. Next Meeting and ADJOURNMENT

By general consent, the meeting was adjourned at 1:03 pm.

Wendy Burton, Chair

Certified Correct:

Katherine Vogt, Recorder